

APPENDIX

Set forth below are cases collected from the May 1964 to April 1968 editions of *THE BULLETIN & THE CHRONICLE*, a reporter published jointly by the Association of American Railroads and the National Association of Railroad Trial Counsel. These cases represent what the respondent believes to be a complete list of all cases reported in that publication which describe a plaintiff's injury and state the damage award. The cases are listed in the order in which they appear in the volumes of the publication.

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Oberski v. New Haven Gas Co., 197 A.2d 73 (Conn. 1964). \$50,000 for burns over 20% of 42-year-old plaintiff's body and \$10,000 for special damages were not excessive.

Jines v. Greyhound Corp., 197 N.E.2d 58 (Ill. App. 1964). \$400,000 not excessive for damages to 21-year-old father of two children who was completely paralyzed in the lower extremities and almost completely paralyzed in the upper extremities.

Edmiston v. Kupsenel, 135 S.E.2d 777 (Va. 1964). \$28,500 not excessive for severe head injuries, fractures of two ribs, and back injury to 51-year-old plaintiff.

Duncan v. Smith, 376 S.W.2d 877 (Tex. Civ. App. 1964). \$175,000 excessive in amount over \$114,000 for extensive third degree burns to plaintiff's face and body.

Dindo v. Grand Union Co., 331 F.2d 138 (2d Cir. 1964). \$12,500 not excessive for injury sustained when a can of beans fell 18 inches from store display and struck the plaintiff on the shoulder causing contusions.

Meagher v. Garvin, 391 P.2d 507 (Nev. 1964). \$125,107.60 to a 58-year-old woman who suffered a leg fracture which left her leg 2½ inches shorter, and \$17,500 to her husband who suffered broken ribs and loss of his wife's services were not excessive.

Adair v. Northern Pacific Ry., 392 P.2d 830 (Wash. 1964). \$13,750, less 40% for contributory negligence,

awarded in FELA action where employee slipped and fell on ice.

Van Slyke v. New York Central R.R., 249 N.Y.S.2d 462 (App. Div. 1964). \$60,000, reduced to \$45,000 because of contributory negligence, was excessive for a herniated-disc back injury where plaintiff's lost time was approximately two weeks.

Watson v. Wilkinson Trucking Co., 136 S.E.2d 286 (S.C. 1964). \$40,000 not excessive for 27-year-old plaintiff who suffered ruptured disc and aggravation of a pre-existing hip condition.

Coffman v. St. Louis-San Francisco Ry., 378 S.W.2d 583 (Mo. 1964). \$270,000 held excessive by \$50,000, where 16-year-old plaintiff suffered severance of his spinal cord, causing complete paralysis of the lower extremities, almost complete paralysis of the upper, and an inability to control bladder and bowels.

Jenkins v. Associated Transport, Inc., 330 F.2d 706 (6th Cir. 1964). \$100,000 not excessive for severe burns and multiple fractures to 36-year-old plaintiff.

Royal Indemnity Co. v. Magee, 331 F.2d 595 (5th Cir. 1964). \$45,000 held not excessive to woman, four months pregnant, who suffered severe facial lacerations and "psychoneurotic reactions."

Breckir v. Lewis, 251 N.Y.S.2d 77 (App. Div. 1964). \$75,000 excessive by \$40,000 for wrongful death of plaintiff's 21-year-old daughter.

Joe Ronè Grain Co. v. McFarland, 381 S.W.2d 220 (Tex. Civ. App. 1964). \$22,094 to a 21-year-old man who suffered severe whiplash was not excessive.

Direct Transport Co. of Fla. v. Rakaskas, 167 So.2d 623 (Fla. App. 1964). \$290,000 not excessive for multiple fractures to plaintiff's pelvis, rendering him "unable to control many of the normal body functions or [to] perform as a normal human being."

Calhoun v. Hildebrandt, 40 Cal. Rptr. 690 (Cal. App. 1964). \$3,500 not inadequate despite fact that medical and hospital expenses and wage loss amounted to more than \$3,988.

Olson v. Siorpia, 130 N.W.2d 827 (Wisc. 1964). \$25,000 held excessive for fractured right femur of 86-year-old female plaintiff.

Pitts v. Greene, 382 S.W.2d 904 (Ark. 1964). \$40,000 held not excessive for mental anguish of both parents for wrongful death of 17-year-old daughter.

Dowd v. Webb, 337 F.2d 93 (3d Cir. 1964). \$18,677 not inadequate for loss of sight of one eye, nose fracture and other injuries.

Francis v. Barnes, 130 N.W.2d 683 (Iowa 1964). \$22,500 not excessive for disc injury to 59-year-old woman.

Zawoycki v. Pittsburgh Railways Co., 204 A.2d 463 (Pa. 1964). \$15,000 not excessive to fireman who was injured in chest and hip.

Farrow v. Cundiff, 383 S.W.2d 119 (Ky. 1964). \$700 not inadequate for injury to an unemployed woman.

Shupe v. New York Central System, 339 F.2d 998 (7th Cir. 1965). \$121,444 held excessive for shoulder injury to male plaintiff.

Derewecki v. Pennsylvania R.R., 36 F.R.D. 195 (W.D. Pa. 1964). \$30,000 for injury during lifetime of employee and \$50,000 for benefit of widow and children for his death were not excessive when deceased suffered extreme pain and two myocardial infarctions.

Caldwell v. Shoptaw, 385 S.W.2d 799 (Ark. 1965). \$24,000 not excessive for neck and back injuries to a 41-year-old married woman.

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Matta v. Welcher, 378 S.W.2d 265 (Mo. App. 1965). \$8,000 for injury to foot creating the possibility of arthritis required a remittitur of \$4,000.

Ganotis v. New York Central Ry., 342 F.2d 767 (6th Cir. 1965). \$30,000 in a FELA action, reduced by 50% for contributory negligence, where mail bag struck employee.

Colorado & So. Ry. v. Lombardi, 400 P.2d 428 (Colo. 1965). \$12,000 for severe injuries to employee's foot caused when door fell upon it.

City of Houston v. Moore, 389 S.W.2d 545 (Tex. Civ. App. 1965). \$47,200 not excessive for cervical laminectomy injury.

Sharpe v. Steel, 208 A.2d 43 (Pa. Sup. 1965). \$1,800 held inadequate for neck injury to male plaintiff.

Currie v. Fiting, 134 N.W.2d 611 (Mich. 1965). \$32,778 to parents for wrongful death of their 21-year-old daughter.

Pierce v. Mowry, 210 A.2d 484 (N.H. 1965). \$6,581 held excessive by \$3,000 for death of a 13-year-old deaf mute with cerebral palsy.

Knotts v. Valocchi, 207 N.E.2d 379 (Ohio 1963). \$42,000 not excessive for permanent injuries requiring 27 days hospitalization.

Shaw v. Texas & Pacific Ry., 170 So.2d 874 (La. 1965). \$50,000 awarded in FELA action for wrongful death.

Whittaker v. Cole, 390 S.W.2d 893 (Ky. 1965). \$25,000 not excessive for two fractured legs of 51-year-old garage owner who was receiving a 40% disability pension.

Kodack v. Long Island R.R., 342 F.2d 244 (2d Cir. 1965). \$100,000 for back injuries upheld.

Newman v. Dalton, 141 S.E.2d 677 (Va. 1965). \$40,000 not excessive for fractured skull and hip socket of 70-year-old male plaintiff.

Nicholson v. Blanchette, 210 A.2d 732 (Md. 1965). \$20,000 for injuries to 59-year-old female plaintiff and \$15,000 awarded plaintiff's husband for loss of consortium.

Mayer v. Sampson, 402 P.2d 185 (Colo. 1965). \$1,787 and \$4,500 held not excessive for injuries to leg, neck and back.

Drosch v. Kato, 400 P.2d 8 (Ore. 1965). \$93,000 held not excessive for injuries to 54-year-old longshoreman who suffered permanent injury to internal organs (removal

of about one-half of left colon), hernia and lame back and neck.

Braswell v. New York, C. & St. Louis R.R., 208 N.E.2d 358 (Ill. App. 1965). \$65,000 held not excessive for compressed fracture of first lumbar vertebra and compression deformity of second lumbar vertebra.

Sodergren v. Goodman, 242 F. Supp. 44 (E.D.S.C. 1965). \$10,500 awarded 38-year-old unmarried woman for general body soreness and severe headaches.

Miller v. DeWitt, 208 N.E.2d 249 (Ill. App. 1965). Three employees awarded \$90,000 (for "crushing" of right leg, fracture of eight ribs and two vertebrae, with leg requiring a permanent 6" - 7" steel plate), \$30,000 (for fracture of left heel, causing impaction and resulting in permanent disability of left foot), and \$5,000 (for lacerations and sprains) for injuries suffered when roof collapsed.

Stiles v. Gove, 345 F.2d 991 (9th Cir. 1965). \$31,728 awarded for wrongful death of 52-year-old woman when stagecoach overturned.

Young v. Hearin Tank Lines, 176 So.2d 790 (La. App. 1965). \$52,814 for injuries to employee's eyes when creosote splashed into them, held not excessive.

Deemer v. Reichart, 404 P.2d 174 (Kan. 1965). \$23,950 for dislocation and comminuted fracture of hip, requiring 51 days in traction, causing phlebitis, and rendering plaintiff unfit for prior employment, held not excessive for 42-year-old man.

Fairbanks v. Yellow Cab Co., 346 F.2d 258 (7th Cir. 1965). \$30,000 not excessive for cervical injury to corporation executive.

Johnson v. Colglazier, 348 F.2d 420 (5th Cir. 1965). Husband (back injury) and wife (fractured vertebra, crushed ankle and rib injuries) awarded \$24,486 and \$46,220 respectively for injuries received in traffic accident. Reversed on other grounds, but held not excessive *per se*.

Underwood v. Pennsylvania R.R., 210 N.E.2d 347 (Ill. App. 1965). \$55,000 for permanent eye injury when debris blew in employee's eyes.

- Zaninovich v. American Airlines*, 262 N.Y.S.2d 854 (Sup. Ct. 1965). \$755,000 damages held not excessive for the death of both parents of four children (father 29, earning \$14,900 per year; mother 28).
- Thill v. Modern Erecting Co.*, 136 N.W.2d 677 (Minn. 1965). \$642,400 to man left paraplegic by construction accident reduced to \$375,000 by trial court.
- Movable Offshore Co. v. Ousley*, 346 F.2d 870 (5th Cir. 1965). \$115,000 to construction employee for leg injury resulting in 40% loss of effective use of knee joint was generous but not excessive.
- Marmo v. Chicago, R.L. & P.R.R.*, 350 F.2d 236 (7th Cir. 1965). \$160,000 held not excessive for loss of hand of 38-year-old railroad machinist.
- Galloway v. Atlantic Coast Line Railroad Co.*, 242 F. Supp. 211 (E.D.S.C. 1965). \$50,000 to 59-year-old railroad car inspector for injuries that disfigured the plaintiff and left him "an obvious cripple for the remainder of his life."
- Poe v. Pittman*, 144 S.E.2d 671 (W. Va. 1965). \$10,000 damages not excessive for fractures to arm and leg of lineman.
- Hook v. Dubuque*, 214 A.2d 377 (Conn. 1965). \$7,500 not excessive for two years of recurring headache pain.
- Hurtig v. Bjork*, 138 N.W.2d 62 (Ia. 1965). \$28,000 to parents of six-year-old girl for her wrongful death; remittitur of \$16,000.
- Robertson v. Rig-A-Lite Co.*, 394 S.W.2d 838 (Tex. Civ. App. 1965). \$500,000 not excessive to 31-year-old man who lost both hands and one leg.
- Teegarden v. Dahl*, 138 N.W.2d 668 (N.D. 1965). \$12,500 for plaintiff's injuries and \$17,500 for her husband's wrongful death.
- Russell v. Gulf, M. & O. R.R.*, 397 S.W.2d 583 (Mo. 1965). \$45,000 to car-man helper held excessive by \$25,000 for permanent injuries to back muscles.
- Brown v. Marker*, 410 P.2d 61 (Okla. 1965). \$50,000 held not excessive for facial scar and leg abnormalities to 5-year-old girl.

Fort Worth & D. Ry. v. Coffman, 397 S.W.2d 544 (Tex. Civ. App. 1965). \$160,000 held not excessive for head injuries incapacitating plaintiff from employment as a conductor who had earned \$9,000 per year and causing imbalance and an inability to walk normally.

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Bridger v. Union Ry., 355 F.2d 382 (6th Cir. 1966). \$60,000 for loss of one leg.

Atlantic Coast Line R.R. v. Braz, 182 So.2d 491 (Fla. App. 1966). \$185,000 for wrongful death of wife and \$40,000 for wrongful death of daughter, upheld with remittitur of \$25,000 with respect to death of wife.

Goodman v. Terminal Railroad Ass'n of St. Louis, 215 N.E.2d 457 (Ill. App. 1966). \$125,000 award for injury which left employee permanently crippled; trial court ordered \$45,000 remittitur.

Holfester v. Long Island R.R., 360 F.2d 369 (2d Cir. 1966). \$250,000 for extensive first, second and third degree burns from middle of body down extremities, causing permanent and serious disability.

Boston & Maine R.R. v. Talbert, 360 F.2d 286 (1st Cir. 1966). \$113,780 held not excessive in FELA action for wrongful death.

McDonald v. Missouri-Kansas-Texas R.R., 401 S.W.2d 465 (Mo. 1966). \$38,541 held not excessive in FELA action for fracture of base of skull which rendered plaintiff "industrially unemployable" for the remainder of his life (40.7 year expectancy).

McLaughlin v. Chicago, M., St. P. & P. Ry., 143 N.W.2d 32 (Wisc. 1966). \$4,000 to priest whose injuries required several hospitalizations held inadequate. Court ordered defendant to consent to award of \$15,000. Additional award of \$12,500 for impairment of professional duties upheld.

Hollis v. Terminal R.R. Ass'n, 218 N.E.2d 231 (Ill. App. 1966). \$175,000 for back injuries requiring laminectomy reduced to \$125,000.

Cutter v. Cincinnati Union Terminal Co., 361 F.2d 637 (6th Cir. 1966). \$60,000 for injury to foot in FELA action.

Parker v. Reading Co., 363 F.2d 608 (3d Cir. 1966). \$100,000 for wrongful death of husband; reversed on other grounds.

Lehigh Valley R.R. v. American Smelting & Ref. Co., 256 F. Supp. 534 (E.D. Pa. 1966). \$22,500 for wrongful death.

Brogdon v. Southern Railway, 253 F. Supp. 676 (E.D. Tenn. 1966). \$20,000 jury verdict awarded widow of industry employee killed on job.

Waller v. Southern Pacific Co., 54 Cal. Rptr. 421 (Cal. App. 1966). \$35,000 FELA award to train dispatcher who was allowed to return to work by railroad doctor, thus aggravating his arteriosclerosis.

New Orleans & N. R.R. v. Thornton, 191 So.2d 547 (Miss. 1966). \$150,000 for wrongful death of 44-year-old housewife who died of breast cancer caused by accident; held excessive, remittitur of \$35,000 ordered.

American National Bank & Trust Co. v. Pennsylvania R.R., 219 N.E.2d 529 (Ill. 1966). \$275,000 to boy, 13, for loss of both legs.

Seiferth v. St. Louis S. Ry., 368 F.2d 153 (7th Cir. 1966). Boy, 16, awarded \$48,000 and father \$7,000 for loss of boy's leg; reversed on other grounds.

Edwards v. Passarelli Bros. Automotive Service, Inc., 8 OS(2d) 6 (Ohio 1966). \$10,000 for injuries in collision.

Blackburn v. Aetha Freight Lines, 368 F.2d 345 (3d Cir. 1966). \$80,000 for wrongful death of husband.

McCann v. Smith, 370 F.2d 323 (2d Cir. 1966). \$50,000 for permanent injuries suffered when engineer assaulted in railroad bunkroom.

Vandaveer v. Norfolk & Western Ry., 222 N.E.2d 897 (Ill. App. 1966). \$40,000 verdict for injuries and consequent ulcer caused by assault upon female employee.

Minton v. Southern Ry., 368 F.2d 719 (6th Cir. 1966). \$10,000 for wrongful death of 72-year-old woman.

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Budd v. Erie L. R.R., 225 A.2d 171 (N.J. 1966). \$58,500 for death, \$6,000 for pain and suffering in FELA action.

Bonastia v. Terminal R.R. Ass'n, 409 S.W.2d 122 (Mo. 1966). \$50,000 in FELA action for death of employee.

Mixon v. Atlantic Coast Line R.R., 370 F.2d 852 (5th Cir. 1966). \$81,532 for limb amputations.

St. John's River Terminal Co. v. Vaden, 190 So.2d 40 (Fla. App. 1966). \$90,500 to employee whose foot was amputated.

Kansas City So. Ry. v. Powell, 411 S.W.2d 633 (Tex. Civ. App. 1967). \$80,000 to 44-year-old fireman for functional loss of 50 percent of leg required remittitur of \$12,000.

Louisville & N.R.R. v. Wade, 195 So.2d 101 (Ala. 1967). \$5,000 for two broken ribs.

Chicago, R.I. & P.R.R. v. Hawes, 424 P.2d 6 (Okla. 1967). \$30,000 to employee who suffered ankle injury and had lost \$8,000 in past wages and presented disputed evidence of future disability.

Missouri Pacific R.R. v. Hesse, 417 S.W.2d 379 (Tex. Civ. App. 1967). \$71,170 for fractures of leg and pelvis, compensating plaintiff for past and future pain and suffering, loss of earnings, impairment of future earnings and medical expenses.

O'Brien v. Great No. R.R., 421 P.2d 710 (Mont. 1966). \$204,000 to wife and minor children of driver killed in crossing accident.

St. Louis S. Ry. v. Farrell, 416 S.W.2d 334 (Ark. 1967). \$70,000 for wrongful death of mother and mental anguish to children, ages 44, 47 and 50, held excessive by \$20,000.

Seaboard Air Line R.R. v. Gay, 201 So.2d 238 (Fla. App. 1967). \$80,000 to mother who suffered mental anguish due to death of 12-year-old daughter in train-auto collision held not excessive.

Jones v. Chesapeake & Ohio Ry., 371 F.2d 545 (4th Cir. 1966). \$97,660 for plaintiff's leg amputation and hip dislocation.

Bartholomay v. St. Thomas Lumber Co., 148 N.W.2d 278 (N.D. 1966). \$32,000 to 22-month-old girl and 3-year-old boy for wrongful death of mother held not excessive.

Del Raso v. Elgin, J. & E. Ry., 228 N.E.2d 470 (Ill. App. 1967). Awards ranging from \$3,000 to \$14,500 in favor of four carmen due to lead poisoning which caused nausea, leg and stomach pains, and loss of appetite.

Flaherty v. Pennsylvania R.R., 231 A.2d 179 (Pa. 1967). \$30,000 for fall which "shattered" clavicle and knocked plaintiff unconscious.

Western Ry. of Ala. v. Brown, 196 So.2d 392 (Ala. 1967). \$14,213 to passenger who sustained injuries to leg aggravating varicosities.

Jehl v. Southern Pac. Co., 427 P.2d 988 (Cal. 1967). \$100,000 to 19-year-old brakeman who had right leg amputated below knee and osteomyelitis in left leg held inadequate; case remanded for additur.

Henninger v. Southern Pac. Co., 59 Cal. Rptr. 76 (Cal. App. 1967). \$650,000 to 29-year-old conductor who lost both legs above the knee and presented evidence that he could never wear a functional prosthesis and would, therefore, require a full-time attendant throughout the rest of his life.

Chesapeake & O. Ry. v. Biliter, 413 S.W.2d 894 (Ky. 1967). \$18,600 to parents allegedly dependent upon son, 44, killed in train wreck found excessive to the extent exceeded \$13,750.

Wells v. Gulf Mobil & O. R.R., 266 N.E.2d 662 (Ill. App. 1967). \$75,000 FELA award to 39-year-old pipe fitter who injured back and who worked only 3 days in 22 months following last employment held not excessive.

Cox v. Northwest Airlines, Inc., 379 F.2d 893 (D.C. Cir. 1967). \$329,956 for wrongful death of husband and father, who at age 29 had projected future income of between \$15,000 and \$20,000, held excessive on the

ground that the award was not discounted to present value.

Dixon v. Pennsylvania R.R., 378 F.2d 392 (3d Cir. 1967).
\$4,000 for injury that allegedly prevented plaintiff from climbing or lifting heavy objects held not inadequate.

Brogdon v. Southern Ry., 384 F.2d 220 (6th Cir. 1967).
\$20,000 to surviving widow.

Brooks v. United States, 273 F. Supp. 619 (D.S.C. 1967).
\$200,239 for wrongful death of man 33, survived by wife and 3 children.

Atlantic Coast Line R.R. v. Daugherty, 157 S.E.2d 880 (Ga. App. 1967). \$62,767 in FELA action for wrongful death.

Houston B. & T. Ry. v. Weingarten, 421 S.W.2d 431 (Tex. Civ. App. 1967). \$51,749 for wrongful death.

Kaufman v. Miller, 414 S.W.2d 164 (Tex. 1967). \$25,000 for disabling nervous disorder caused by injury.

Gaddy v. Louisville & N.R.R., 386 F.2d 772 (6th Cir. 1967).
\$100,500 to widow and two minor children.